

### **Remarks/Arguments**

Claims 119-123 are pending in this application and are rejected on various grounds and rejections to these claims are respectfully traversed.

### **Priority**

Applicants acknowledge the Examiner's comments and have amended the specification to correct priorities.

Further, Applicants submit that they rely on the homology of PRO1186 to "the black mamba venom protein" for patentable utility of the instant application. This homology was first disclosed in US Provisional Application 60/096,146, filed August 11, 1998, priority to which has been claimed in this application and is hereby enclosed for the Examiner's reference. Therefore, Applicants believe that they are entitled to a priority date of at least **August 11, 1998** for the instantly pending claims.

### **Claim Rejections – 35 U.S.C. § 102**

Claims 119, 120, 123 and 124 are rejected under 35 U.S.C. §102(a) as being anticipated by Edwards (WO 99/06550, published 11/02/1999).

As discussed above under the 'Priority' section, Applicants believe that they are entitled to a priority date of at least **August 11, 1998** for the instantly pending claims, which predates that Edwards reference. Therefore, Claims 119, 120, 123 are not anticipated and is not prior art and therefore, this rejection should be withdrawn.

### **Claim Rejections – 35 U.S.C. § 103**

Claims 119, 122 are rejected under 35 U.S.C. §103(a) as being unpatentable over Edwards (WO 99/06550, published 11/02/1999) as applied to claim 119 and further in view of Brandon.

As discussed above, based on at least the effective priority date of 8/11/1998 for the instant application, the primary reference, Edwards, does not anticipate claim 119 or 122. The secondary reference Brandon does not teach or anticipate SEQ ID NO: 371 of the instant claims. Hence, this rejection falls and should be withdrawn.

**Double Patenting Rejection**

Claims 119-123 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 62, 80-84, 88, 91-99, 103, 104 of copending Application No. 10/027,603. The Examiner says that "Although the conflicting claims are not identical, they are not patentably distinct from each other because SEQ ID NO: 371 of the present application is identical to SEQ ID NO: 2 of the copending application."

Applicants respectfully request that this rejection be held in abeyance until there is an indication of allowable subject matter in either of these cases.

The present application is believed to be in *prima facie* condition for allowance, and an early action to that effect is respectfully solicited.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 08-1641 (Attorney Docket No.: 39780-2730P1C36). Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

Date: September 29, 2005

  
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